
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 117

**The National Health Service Superannuation
Scheme (Scotland) Regulations 2011**

PART M

TRANSFER-OUT ARRANGEMENTS AND BUY-OUTS

Member's right to a transfer or a buy-out

M1.—(1) A member who leaves pensionable employment with a preserved pension has the right to require the Scottish Ministers to transfer or buy-out the member's rights under this Section of the scheme as described in this regulation.

(2) Subject to the following provisions of this regulation, the member may require the Scottish Ministers to use the cash equivalent of the member's rights under this Section of the scheme—

- (a) to purchase one or more buy-out policies from one or more insurance companies chosen by the member ^{F1}which satisfies or satisfy the requirements set out in regulation 12(2) of the Occupational Pension Schemes (Transfer Values) Regulations 1996];
- (b) to acquire rights under—
 - (i) another occupational pension scheme; or
 - (ii) a personal pension scheme,^{F2} ... ;
- (c) to acquire rights under an arrangement that is a qualifying recognised overseas pension scheme for the purposes of section 169(2) (recognised transfers) ^{M1} of the 2004 Act; or
- (d) in any combination of the ways described in sub-paragraphs (a), (b) and (c).

^{F3}(2A) Any use of the cash equivalent of a member's rights under paragraph (2) must satisfy the requirements of Chapter 1 (transfer rights: general) of Part 4ZA of the 1993 Act.]

(3) The member must exercise the member's right under paragraph (1) in relation to each and every portion of the cash equivalent unless paragraph (4) applies.

(4) The benefits attributable to—

- (a) the member's accrued rights to a guaranteed minimum pension; or
- (b) the member's accrued rights attributable to service in contracted-out employment on or after 6th April 1997,

may be excluded from the cash equivalent transfer value payment if section 96(2) (further provisions concerning exercise of option under s.95) of the 1993 Act applies (trustees or managers of certain receiving schemes or arrangements able and willing to accept a transfer payment only in respect of the member's other rights).

(5) A member who requires the cash equivalent to be used to acquire rights under another occupational pension scheme in accordance with paragraph (2) may exercise the right—

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Changes to legislation: There are currently no known outstanding effects for the The National Health Service Superannuation Scheme (Scotland) Regulations 2011, Section M1. (See end of Document for details)

- (a) at any time before reaching age 60; or
 - (b) at a later time if the member exercises the right to require a transfer on the transfer of the member's employment to a new employer as a result of a transfer of an undertaking to that employer.
- (6) A member may require the Scottish Ministers to use the cash equivalent of the member's rights under this Section of the scheme to purchase one or more buy-out policies or to acquire rights under a personal pension scheme only—
- (a) if the member leaves pensionable employment on or after 1st January 1986; and
 - (b) if those rights are to be transferred to a personal pension scheme, in relation to any period of service of 2 years or more falling before 6th April 1988, only if a period of not less than one month has elapsed between the date the member left NHS employment and the date of commencement of any further NHS employment.
- (7) Paragraph (8) applies where a member—
- (a) leaves pensionable employment by opting-out;
 - (b) on so doing becomes entitled to a preserved pension under regulation E12 (preserved pension); and
 - (c) has at least 2 years' service before 6th April 1988.
- (8) In relation to the member's rights—
- (a) the member's right to require a transfer or buy-out will be limited to the cash equivalent of the part of the member's rights that is attributable to service after 5 April 1988; and
 - (b) the member will acquire a right to the cash equivalent of the member's remaining rights only if the member actually leaves NHS employment before reaching age 60.
- (9) A member who leaves pensionable employment before reaching age 60, without becoming entitled to a pension under any of regulations E1 to E11 or a preserved pension under regulation E12 will be treated, for the purposes of regulations M1 to M5, as if the member had left pensionable employment with a preserved pension, except that—
- [^{F4}(za) a member may require the cash equivalent to be used to acquire rights in one or more of the ways permitted under section 101AE of the 1993 Act;]
- (a) a member who requires the cash equivalent to be used to buy one or more buy-out policies must exercise the right to buy-out within 12 months after leaving pensionable employment; and
 - (b) a member who requires the cash equivalent to be used to acquire rights under another occupational pension scheme, a personal pension scheme or a qualifying recognised overseas pension scheme must join that other scheme within 12 months after leaving pensionable employment and exercise the right to transfer within 12 months after joining that other scheme.

Textual Amendments

- F1** Words in reg. M1(2)(a) inserted (13.3.2017) by [The National Health Service Superannuation Scheme \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/27\)](#), regs. 1(1), **9(a)** (with reg. 53)
- F2** Words in reg. M1(2)(b) omitted (13.3.2017) by virtue of [The National Health Service Superannuation Scheme \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/27\)](#), regs. 1(1), **9(b)** (with reg. 53)
- F3** Reg. M1(2A) inserted (13.3.2017) by [The National Health Service Superannuation Scheme \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/27\)](#), regs. 1(1), **9(c)** (with reg. 53)

F4 Reg. M1(9)(za) inserted (1.4.2015) by [The National Health Service Superannuation Scheme \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/96\)](#), regs. 1(2), **14**

Marginal Citations

M1 To which there are amendments not relevant to these Regulations.

Status:

Point in time view as at 13/03/2017.

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service Superannuation Scheme (Scotland) Regulations 2011, Section M1.